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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/657,476	09/08/2003	Anthony Sanding	UTL 00072	2679
32968	7590	02/21/2007	EXAMINER	
KYOCERA WIRELESS CORP. P.O. BOX 928289 SAN DIEGO, CA 92192-8289			SHEDRICK, CHARLES TERRELL	
		ART UNIT	PAPER NUMBER	
		2617		
SHORTENED STATUTORY PERIOD OF RESPONSE		MAIL DATE	DELIVERY MODE	
3 MONTHS		02/21/2007	PAPER	

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary	Application No.	Applicant(s)
	10/657,476	SANDING, ANTHONY
	Examiner Charles Shedrick	Art Unit 2617

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 16 November 2006.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-24 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 23 November 2005 is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION***Response to Arguments***

Applicant's arguments filed 11/16/06 have been fully considered but they are not persuasive.

Applicant has amended claim 8. Applicant asserts that Criss does not teach, suggest, or describe an end of session detector connected to the processor for detecting an expected end of session indicator sent by the network, where the expected end of session indicator is detected without a prior request from the mobile subscriber unit (See, e.g., paragraphs 22-24 and 29 of the specification). Criss, on the other hand, describes a process whereby a server installs updated software on a mobile device after the mobile device sends a message to the server asking for the software update. (See, the Abstract of Criss, for example where it states that the mobile device is to inquire and obtain available software updates.)

However, The Examiner respectfully disagree.

The claim language indicates... “without a prior request” on the basis of the claim language this limitation does not overcome the prior (i.e., is this a prior request to terminate , a prior request to download ,a prior request to make a call , a prior request for registration etc.)

It would be unclear as to how the mobile unit would be enabled to do much without “ a prior request”(e.g., a registration request, channel acquisition).

Further Criss outlines in paragraph 0051 that [0051] the host computer 30 is responsible for supporting the network activities of the mobile terminals 36 within the system 20. As part of such function, the host computer 30 is responsible for determining whether the mobile terminals 36 have the most current versions of software and, if updating is needed, indicating to the mobile terminals 36 which operating software needs to be updated. When a mobile terminal 36 within

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the system initially powers up (via an on/off switch for example) or is reset, the mobile terminal 36 goes through an initialization, or boot-up routine. Such routine includes communicating with the host computer 30 via a selected base station 26 in order that the host computer 30 provides the mobile terminal 36 with its internet protocol (IP) address as is conventional. In addition, however, just following the boot up routine, or at any time thereafter, the host computer 30 requests from the mobile terminal indica which identifies which version of operating software the mobile terminal is running. The host computer 30 then compares the version of operating software stored within the mobile terminal 36 with the latest version of software known to be available in the FTP server 31. If the mobile terminal 36 has a different version of operating software stored as compared to the version currently available in the FTP server 31, it is assumed that the operating software in the FTP server 31 has been upgraded since the last time the mobile terminal 36 has logged on. Consequently, host computer 31 transmits a request to the mobile terminal 36 requesting the mobile terminal 36 to have its operating software updated. Upon receiving the request, the mobile terminal 36 initiates an exchange with the FTP server 31 to download the latest version of operating software available. In the event the version of the operating software stored in the FTP server 31 is the same version as that which is currently stored in the mobile terminal 36, the host computer 30 does not request the mobile terminal 36 to update its operating software. In this manner, needless downloading of files is avoided. Claim 20 indicates that the expected termination happens without a prior request for an end of session indicator, however, it is unclear as to how the Applicant would distinguish an end of session indicator from Criss when the Applicants Spec outlines an end of session as a session

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that properly or improperly terminates. Criss does not require an explicit request, but instead conditions (e.g., timeout period).

Based on the above arguments, the claims are not allowable at this time.

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 8-11 rejected under 35 U.S.C. 102(b) as being anticipated by **Criss et al. US Pub. No.: 2001/0029178 A1**, hereinafter, “Criss”.

Consider **claim 8**, Criss teaches a mobile subscriber unit, comprising: a processor 40 (figure 2) connected to a wireless communication interface 54 (figure 2)(i.e., see at least paragraphs 0017 and 0053), the processor receiving an over-the-air programming session in an over-the-air call initiated by a network and received via the wireless communication interface (i.e., see at least paragraph 0102); an end of session detector connected to the processor configured to detect an expected end of session indicator sent by the network, (i.e., the processor detects the end of session indicator which is sent via FTP within a predetermined time period)(i.e., see at least paragraphs 0085,0087, 0097, ,0112, 0114);wherein the expected end of session indicator is detected without a prior request from the mobile subscriber unit(e.g., see paragraph 0051); and a call terminator coupled to the end session detector (i.e., the processor 40 of figure 2), the call terminator configured to terminate the over-the-air call when the end session

detector fails to detect the expected end of session indicator (i.e., see at least paragraphs 0087 and 0116).

Consider **claim 9 and as applied to claim 8 above**, Criss teaches wherein the end of session indicator is an end of session message (i.e., FTP message according to FTP protocol)(paragraph 0109).

Consider **claim 10 and as applied to claim 8 above**, Criss teaches wherein the end session detector comprises a timer configured to timeout after a time-out period if the expected end of session indicator is not detected (i.e., see at least paragraphs 0087 and 0116).

Consider **claim 11 and as applied to claim 8 above**, Criss teaches the claimed invention further comprising a circumstance evaluator (i.e., the processor 40) configured to detect a condition (i.e., a time-out) associated with the failure of the end of session detector to detect the expected end of session indicator (i.e., see at least paragraphs 0087 and 0116).

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.

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2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 1-6,13-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nodoushani et al. (U.S. Patent # 6,144,849), hereinafter “Nodoushani” in view of Criss et al. US Pub. No.: 2001/0029178 A1, hereinafter, “Criss”

Consider **claim 1**, Nodoushani teaches a method for terminating an over-the-air (OTA)-programming call comprising the steps of: a network initiating the OTA programming call to a mobile subscriber unit (i.e., see at least abstract, and col. 2 lines 15-30), the OTA programming call comprising an OTA programming session (i.e., see at least abstract, and col. 2 lines 15-30); a mobile subscriber unit receiving the over-the – air programming call (i.e., see at least abstract, and col. 2 lines 15-30, and col. 4 line 60- col. 5 line 8); the mobile subscriber 26 the for detecting an expected termination of the OTA programming call by the network upon the end of the OTA programming session (col. 4 line 60- col. 5 line 8, and col. 11 lines 1-15), wherein the expected e termination of the OTA programming session is detected without a prior request from the mobile subscriber unit(e.g., see paragraph 0051)

However, Nodoushani does not specifically teach the mobile subscriber unit terminating the OTA programming call if the expected termination of the OTA programming call by the network is not detected.

In the same field of endeavor, Criss teaches teach the mobile subscriber unit terminating the OTA programming call if the expected termination of the OTA programming call by the network is not detected (i.e., see at least paragraph 0087 and 0116)

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Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify Nodoushani to include the mobile subscriber unit terminating the OTA programming call if the expected termination of the OTA programming call by the network is not detected to avoid the possibility that the mobile terminal becoming hung up due to a system failure as taught by Criss in the referenced sections.

Consider **claim 2**, and as applied to claim 1 above, Nodoushani further discloses a method wherein the over-the-air programming session is an over-the-air service provisioning session (i.e., see at least abstract, col. 1 lines 25-38, col. 2 lines 15-30).

Consider **claim 3**, and as applied to claim 1 above, Nodoushani further discloses a method wherein the over-the-air programming session is an over-the-air service parameter session (i.e., see at least abstract, col. 1 lines 25-38, col. 2 lines 15-30).

Consider **claim 4**, and as applied to claim 1 above, Nodoushani teaches the claimed invention except wherein a failure to receive an expected termination of the OTA programming call is a result of a communication error.

However in the same field of endeavor, Criss teaches wherein the (i.e., a failure) failure to receive an expected termination of the OTA programming call is a result of a communication error (i.e., a system failure) (see paragraphs 0087 and 0116).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify Nodoushani to include wherein the (i.e., a failure) failure to receive an expected termination of the OTA programming call is a result of a communication error to avoid the possibility that the mobile terminal becoming hung up due to a system failure as taught by Criss in the referenced sections.

Consider **Claim 5 and as applied to the method of claim 1**, Nodoushani teaches the claimed invention except wherein the step of detecting a failure of the network to terminate the OTA programming further comprises detecting that a time-out period has lapsed without receiving an over-the-air message that the over-the-air session has ended.

However, in the same field of endeavor, Criss teaches the step of detecting a failure of the network to terminate the OTA programming further comprises detecting that a time-out period has lapsed without receiving an over-the-air message that the over-the-air session has ended (paragraph 0087 and 0116)

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify Nodoushani to include wherein the step of detecting a failure of the network to terminate the OTA programming further comprises detecting that a time-out period has lapsed without receiving an over-the-air message that the over-the-air session has ended to avoid the possibility that the mobile terminal becoming hung up due to a system failure as taught by Criss in the referenced sections.

Consider **claim 6 and as applied to claim 1 above**, Nodoushani further discloses the claimed invention except a method comprising the step of: a mobile subscriber unit detecting a condition associated with a failed over-the-air call release.

However in the same field of endeavor, Criss teaches a method comprising the step of: a mobile subscriber unit detecting a condition associated with a failed over-the-air call release (i.e., time-out) (see paragraphs 0087 and 0116).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify Nodoushani to include a method comprising the step of: a

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mobile subscriber unit detecting a condition associated with a failed over-the-air call release to avoid the possibility that the mobile terminal becoming hung up due to a system failure as taught by Criss in the referenced sections.

Consider **claim 13**, Nodoushani teaches A wireless communications system comprising: a plurality of base stations 22 (figure 1); a system server 50 configured to send an over-the-air programming call to a plurality of mobile subscriber units via the plurality of base stations (i.e. see at least col. 4 line 60 – col. 5 line 8, and col. 5 lines 20 – 44), the system server for sending an over-the-air programming call to a plurality of mobile subscriber units via the plurality of base stations (col. 3 line 67 – col. 4 line 6), the system server configured to terminate the over the air programming call comprising an over the air session and an end of session indicator (col. 10 line 55-col. 11 line 15); and each mobile subscriber unit of the plurality of mobile subscriber units 26comprising; a transceiver circuit configured to receive the over-the-air programming call (i.e., inherent in the operation disclosed under the operation heading starting at col. 4 line 60);

However, Nodoushani does not specifically teach an end of session detector connected to the transceiver circuit and configured to detect the end of session indicator received from the system server; wherein the expected end of session indicator is detected without a prior request from the mobile subscriber unit and a call terminator connected to the transceiver circuit and the end session detector, the call terminator configured to terminate the over-the-air programming call when the end session detector fails to detect the end of session indicator .

In the same field of endeavor, Criss teaches an end of session detector (i.e., processor 40) connected to the transceiver circuit and configured to detect the end of session indicator received from the system server (i.e., see at least paragraphs 0017, 0087, and 0116) wherein the expected

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end of session indicator is detected without a prior request from the mobile subscriber unit(e.g., see paragraph 0051); and a call terminator (i.e., processor 40) connected to the transceiver circuit and the end session detector (i.e., see at least paragraphs 0017), the call terminator configured to terminate the over-the-air programming call when the end session detector fails to detect the end of session indicator(i.e., see at least paragraphs 0017, 0087, and 0116).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify Nodoushani to include an end session detector connected to the transceiver circuit and configured to detect the end of session indicator received from the system server; and a call terminator connected to the transceiver circuit and the end session detector, the call terminator configured to terminate the over-the-air programming call when the end session detector fails to detect the end of session indicator to avoid the possibility that the mobile terminal becoming hung up due to a system failure as taught by Criss in the referenced sections.

Consider **claim 14**, and **as applied to the system in claim 13 above**. Nodoushani as modified by Criss teaches that the plurality of base stations could include a digital base stations (col. 4 lines 8-15).

Consider **claim 15**, and **as applied to the system in claim 13 above**. Nodoushani as modified by Criss teaches that the plurality of base stations **101-103** could include an analog base (col. 4 lines 8-15).

Consider **claim 16**, and **as applied to claim 13 above** Nodoushani teaches the claimed invention except wherein the end of session indicator is an end of session message sent by the server.

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However, in the same field of endeavor, Criss teaches wherein the end of session indicator is an end of session message sent by the server (i.e., FTP message according to FTP protocol)(paragraph 0109).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify Nodoushani to include wherein the end of session indicator is an end of session message sent by the server for the purpose of indication the end of a session as taught by Criss (FTP messages are defined as part of the protocol. For a detailed explanation of the protocol please consult the RFC).

Consider **claim 17 and as applied to claim 13 above** Nodoushani teaches the claimed invention except wherein the end session detector of the each mobile subscriber unit comprises a timer configured to timeout after a time-out period if the end of session indicator is not received from the system server.

However in the same field of endeavor, Criss teaches wherein the end session detector of the each mobile subscriber unit comprises a timer configured to timeout after a time-out period if the end of session indicator is not received from the system server (i.e., see at least paragraph 0087 and 0116).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify Nodoushani to include wherein the end session detector of the each mobile subscriber unit comprises a timer configured to timeout after a time-out period if the end of session indicator is not received from the system server to avoid the possibility that the mobile terminal becoming hung up due to a system failure as taught by Criss in the referenced sections.

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Consider **claim 18 and as applied to claim 13 above**, Nodoushani teaches the claimed invention except further comprising a circumstance evaluator connected to the transceiver circuit and configured to detect a condition associated with the failure of the end of session detector to detect the expected end of session indicator.

In the same field of endeavor, Criss teaches the claimed invention further comprising a circumstance evaluator (i.e., the processor 40) connected to the transceiver circuit and configured to detect a condition (i.e., a time-out) associated with the failure of the end of session detector to detect the expected end of session indicator (i.e., see at least paragraphs 0017, 0087 and 0116).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify Nodoushani to include comprising a circumstance evaluator connected to the transceiver circuit and configured to detect a condition associated with the failure of the end of session detector to detect the expected end of session indicator to avoid the possibility that the mobile terminal becoming hung up due to a system failure as taught by Criss in the referenced sections.

Claims 7 and 19-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nodoushani (U.S. Patent # 6,144,849) in view of Criss et al. US Pub. No.: 2001/0029178 A1 and further in view of Dahlin (U.S. Patent # 5,257,401).

Consider **claim 7 and as applied to claims 6 above**, Nodoushani as modified by Criss teaches the claimed invention except wherein the step of detecting a condition associated with the failed over-the-air call release comprises detecting a transition from a digital network to an analog network while engaged in the associated over-the-air programming call.

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In the same field of endeavor, Dahlin discloses a method of detecting a transition from an analog network associated with an analog base station to digital network associated with a digital base station while engaged in the over the air programming call (**column 15 lines 26-68**)(i.e., maintaining a connection (*over the air programming call*) while transitioning between digital and analog network).

Therefore it would have been obvious at the time of the invention to include the method of detecting a transition from analog to digital as taught by Dahlin to create a more seamless mobile platform.

Consider **claim 19** and as applied to claims **18** above, Nodoushani teaches wherein the plurality of base stations comprises a digital base station and an analog base station (col. 4 lines 8-15),

However, Nodoushani does not specifically teach wherein the circumstance evaluator of the each mobile subscriber unit is configured to detect a transition from a digital network associated with the digital base station to an analog network associated with the analog base station.

In the same field of endeavor, Criss teaches wherein the circumstance evaluator of the each mobile subscriber unit is configured to detect (i.e., see paragraphs 0087 and 0016).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify Nodoushani to include a Circumstance evaluator for the purpose of detecting the possibility of a hung session.

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However, Nodoushani as modified by Criss does not specifically teach detecting a transition from a digital network associated with the digital base station to an analog network associated with the analog base station.

In the same field of endeavor, Dahlin discloses a method of detecting a transition from an analog network associated with an analog base station to digital network associated with a digital base station while engaged in the over the air programming call (**column 15 lines 26-68**)(i.e., maintaining a connection (*over the air programming call*) while transitioning between digital and analog network).

Therefore it would have been obvious at the time of the invention to include the method of detecting a transition from analog to digital as taught by Dahlin to create a more seamless mobile platform.

Consider **claim 20**, Nodoushani teaches a method for an over-the-air programming session (i.e., abstract), comprising: a mobile subscriber unit receiving an over-the-air programming call on a communication channel to begin an over-the-air programming session (i.e., see at least abstract, and col. 2 lines 15-30, and col. 4 line 60- col. 5 line 8), the over-the-air programming call initiated by a wireless network (i.e., see at least abstract, and col. 2 lines 15-30, and col. 4 line 60- col. 5 line 8); the over-the-air programming call comprising an end-of-session indicator(col. 4 line 60- col. 5 line 8, and col. 11 lines 1-15); the mobile subscriber unit in the over-the-air programming session(i.e., see at least abstract, and col. 2 lines 15-30, and col. 4 line 60- col. 5 line 8);

However, Nodoushani does not specifically teach the mobile subscriber unit determining that the end-of-session indicator has not been received from the wireless network the mobile

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subscriber unit terminating the over-the-air programming call by releasing the communication channel upon the determination that the end-of-session indicator has not been received, wherein the determining step occurs without a prior request for the end of session indicator from the mobile subscriber unit and transitioning from a digital network to an analog network while engaged.

In the same field of endeavor Criss teaches the mobile subscriber unit determining that the end-of-session indicator has not been received from the wireless network the mobile subscriber unit terminating the over-the-air programming call by releasing the communication channel upon the determination that the end-of-session indicator has not been received (i.e., see at least paragraph 0087 and 0116), wherein the determining step occurs without a prior request for the end of session indicator from the mobile subscriber unit (e.g., see paragraphs 0085-0087).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify Nodoushani to include the mobile subscriber unit determining that the end-of-session indicator has not been received from the wireless network the mobile subscriber unit terminating the over-the-air programming call by releasing the communication channel upon the determination that the end-of-session indicator has not been received to avoid the possibility that the mobile terminal becoming hung up due to a system failure as taught by Criss in the referenced sections.

However, Nodoushani as modified by Criss does not specifically teach transitioning from a digital network to an analog network while engaged.

In the same field of endeavor, Dahlin discloses a method of transitioning from an analog network associated with an analog base station to digital network associated with a digital base

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station while engaged in the over the air programming call (**column 15 lines 26-68**)(i.e., maintaining a connection (*over the air programming call*) while transitioning between digital and analog network).

Therefore it would have been obvious at the time of the invention to include the method of detecting a transition from analog to digital as taught by Dahlin to create a more seamless mobile platform.

Consider **claim 21**, and **as applied to claim 20 above**, Nodoushani as modified by Criss and further modified by Dahlin further discloses a method wherein the over-the-air programming session is an over-the-air service provisioning session (i.e., see at least abstract, col. 1 lines 25-38, col. 2 lines 15-30).

Consider **claim 22**, and **as applied to claim 20 above**, Nodoushani as modified by Criss and further modified by Dahlin further discloses a method wherein the over-the-air programming session is an over-the-air service parameter session (i.e., see at least abstract, col. 1 lines 25-38, col. 2 lines 15-30).

Consider **claim 23**, and **as applied to claim 20 above** Nodoushani teaches the claimed invention except wherein the end-of-session indicator comprises an over-the-air end of session message received from the wireless network.

However, in the same field of endeavor, Criss as modified by Dahlin teaches wherein the end-of-session indicator comprises an over-the-air end of session message received from the wireless network (i.e., FTP message according to FTP protocol)(paragraph 0109).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify Nodoushani to include wherein the end-of-session indicator comprises an over-the-air end of session message received from the wireless network for the purpose of indication the end of a session as taught by Criss and further modified by Dahlin (FTP messages are defined as part of the protocol. For a detailed explanation of the protocol please consult the RFC).

Consider **Claim 24 and as applied to the method of claim 20**, Nodoushani teaches the claimed invention except wherein the step of determining that the end-of-session indicator has not been received further comprises detecting that a time-out period has lapsed without receiving an over-the-air end of session message from the wireless network.

However, in the same field of endeavor, Criss as modified by Dhalin teaches wherein the step of determining that the end-of-session indicator has not been received further comprises detecting that a time-out period has lapsed without receiving an over-the-air end of session message from the wireless network (paragraphs 0087 and 0116).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify Nodoushani to include wherein the step of determining that the end-of-session indicator has not been received further comprises detecting that a time-out period has lapsed without receiving an over-the-air end of session message from the wireless network to avoid the possibility that the mobile terminal becoming hung up due to a system failure as taught by Criss and further modified by Dhalin in the referenced sections.

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Claims 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over **Criss et al. US Pub. No.: 2001/0029178 A1** and further in view of **Dahlin (U.S. Patent # 5,257,401)**.

Consider **claim 12 and as applied to claim 11 above**, Criss teaches the claimed invention further comprising a circumstance evaluator (i.e., the processor 40).

However, Criss does not teach detecting a transition from a digital network to an analog network while the mobile subscriber unit is engaged in the over-the-air call.

In the same field of endeavor, Dahlin discloses a method of detecting a transition from an analog network associated with an analog base station to digital network associated with a digital base station while engaged in the over the air programming call (**column 15 lines 26-68**)(i.e., maintaining a connection (*over the air programming call*) while transitioning between digital and analog network).

Therefore it would have been obvious at the time of the invention to include the method of detecting a transition from analog to digital as taught by Dahlin to create a more seamless mobile platform.

Conclusion

3. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37

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CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Charles Shedrick whose telephone number is (571)-272-8621. The examiner can normally be reached on Monday thru Friday 8:00AM-4:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kincaid Lester can be reached on (571)-272-7922. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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February 12, 2007


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